

# United States Department of Agriculture

## FOOD AND DRUG ADMINISTRATION

### NOTICES OF JUDGMENT UNDER THE FOOD AND DRUGS ACT

[Given pursuant to section 4 of the food and drugs act]

21776—21825

[Approved by the Acting Secretary of Agriculture, Washington, D.C., August 30, 1934]

**21776. Supplement to Notice of Judgment no. 19651. Adulteration and misbranding of B. & M. U. S. v. 33 Small Bottles, et al., of B. & M. Decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 26939, 26940, 26968, 26980, 26981, 26984, 26987, 26989. I.S. nos. 28222, 29487, 29488, 29559, 29560, 34717, 34718, 34720, 34734, 35857, 35859, 36399, 39486. S. nos. 5147, 5154, 5162, 5191, 5192, 5197, 5198, 5205.)**  
**Misbranding of B. & M. and B. & M. External Remedy. U. S. v. 2 Dozen Bottles of B. & M., et al. Default decrees of condemnation, forfeiture, and destruction. (F. & D. nos. 26983, 28526, 28528, 28621, 28686, 28688, 28689, 28692, 28693, 28701, 28741, 28745, 28829, 28830, 28833, 28834, 28866, 28867, 28894, 28929, 28930, 28957, 28974. I.S. no. 58517. S. no. 5194. Sample nos. 326-A, 329-A, 330-A, 767-A, 769-A, 770-A, 1447-A, 1448-A, 2127-A, 2128-A, 2649-A, 2650-A, 4082-A, 4325-A, 4326-A, 5990-A, 6882-A, 6883-A, 7719 to 7722-A, 8438-A, 8439-A, 13207-A, 13208-A, 13277-A, 13278-A, 13404-A, 13405-A, 15103-A, 15404-A, 18177-A, 18801-A, 18828-A, 18829-A.)**

On July 19, 1932, the date on which the verdict was returned in the district court for the District of Maryland, finding certain shipments of B. & M. misbranded because of false and fraudulent curative and therapeutic claims in the labeling, there were pending in the Federal courts for the Districts of Western New York, Northern Illinois, Eastern Michigan, Western Pennsylvania, Eastern Virginia, and Southern New York, nine seizure actions in which libels had been filed between the dates of September 4, 1931, and September 25, 1931, against approximately 506 bottles of B. & M., in various lots at Buffalo, N.Y., Chicago, Ill., Detroit, Mich., Pittsburgh, Pa., Richmond, Va., and New York, N.Y. The libels alleged that the article had been shipped in interstate commerce; that all shipments but one had been made by the F. E. Rollins Co., from Boston, Mass., between the dates of August 4 and September 9, 1931, and that the remaining shipment had been made by the Mutual Drug Co., from Cleveland, Ohio, to Pittsburgh, Pa., on or about July 23, 1931; and charged that the article was adulterated and misbranded in violation of the Food and Drugs Act as amended.

The libels alleged that the article was adulterated and misbranded in the same respects as the product involved in the case instituted in the District of Maryland against certain quantities of B. & M. (Notice of Judgment No. 19651.)

The F. E. Rollins Co., Boston, Mass., appeared as claimant and filed answers and exceptions to the above libels. On March 17, 1933, the libel filed in the Southern District of New York was amended, the amended libel charging misbranding of the article because of the false and fraudulent curative claims appearing in the label; no answer or exceptions were filed to the amended libel.

Between the dates of July 17 and August 30, 1932 (and subsequent to the verdict in the case tried in the District of Maryland), seizure proceedings were instituted in the Federal district courts for Southern Florida, Northern Alabama, Eastern Pennsylvania, Northern California, Oregon, Eastern Wisconsin, Western Washington, Minnesota, Eastern Missouri, Southern Mississippi,

Western Texas, Southern California, Eastern Louisiana, Southern Texas, Arizona, Southern Ohio, Middle Tennessee, New Mexico, and Northern Illinois against approximately 2,660 large and small bottle of B. & M. and 105 bottles of B. & M. External Remedy, in various lots within the jurisdiction of the said courts. The libels alleged that the articles had been shipped in interstate commerce; that the greater number of shipments had been made by the F. E. Rollins Co., from Boston, Mass. (one shipment by the National Remedy Co. of Boston, Mass., predecessor of the F. E. Rollins Co.); that certain shipments had been made by George F. Sargent from Oakland, Calif., and the Mutual Drug Co., from Cleveland, Ohio; that the shipments had been made during the period from November 6, 1928, to July 30, 1932; and that the articles were misbranded in violation of the Food and Drugs Act as amended.

The libels filed against the B. & M. charged that the article was misbranded in that certain statements in the labeling regarding the curative and therapeutic effects of the article were false and fraudulent. These statements, which were set out in full in the libels, were identical with or substantially the same as the false and fraudulent claims quoted in Notice of Judgment no. 19651.

The libels filed against the B. & M. External Remedy charged that the bottles, cartons, and circulars bore false and fraudulent claims as to the effectiveness of the article in the treatment of tuberculosis of the lungs, glands, and other parts of the body, pneumonia, bronchitis, coughs, rheumatism, infantile paralysis and other germ or inflammatory disease, pleurisy, la grippe or influenza, asthma, catarrh, hay fever, rheumatic fever, lumbago, neuritis, neurasthenia, peritonitis, scarlet fever, diphtheria, whooping cough, croup, mumps, blood poisoning, autointoxication, kidney and bladder trouble, indigestion, varicose veins, stiff joints, pain and inflammation, laryngitis, bronchitis, coughs, and bites of poisonous insects.

No appearances or claims were entered in the cases filed subsequent to July 19, 1932, and those entered prior to that time were withdrawn. Between the dates of August 18, 1932, and October 3, 1933, judgments of condemnation were entered in the cases and the products were ordered destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

**21777. Adulteration and misbranding of Chocolate-Flavor Cascarets. U. S. v. 12 Dozen and 8 Dozen Boxes of Chocolate-Flavor Cascarets. Default decree of forfeiture. Product delivered to Federal agency. (F. & D. no. 31265. Sample no. 47050-A.)**

This case involved the interstate shipment of a product labeled to convey the impression that it was a candy; that it had the same medicinal constituents as "Candy Cathartic Cascarets"; and that it derived its essential property from cascara sagrada. Examination showed that the article was not a candy but was a drug; that its principal therapeutic agent was the synthetic cathartic phenolphthalein; and that it was not the same product which the public had become familiar with under the name, "Candy Cathartic Cascarets."

On October 23, 1933, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 20 dozen boxes of Chocolate-Flavor Cascarets at Boston, Mass., alleging that the article had been shipped in interstate commerce on or about August 29, 1933, by the Sterling Products Co., Inc., from Wheeling, W. Va., and charging adulteration and misbranding in violation of the Food and Drugs Act as amended.

Analysis of a sample of the article by this Department showed that it consisted of lozenges composed essentially of laxative drugs, including phenolphthalein (2.1 grains each), incorporated in sweetened, flavored chocolate.

It was alleged in the libel that the article was adulterated in that its strength and purity fell below the professed standard and quality under which it was sold, namely: (On metal container) "Cascarets"; (on circular accompanying the retail package) "Cascarets A New \* \* \* Form Of An Old, Time-Tested Remedy For many years, candy Cascarets have pleased the palate of old and young. And now they are even better, having been given a rich chocolate flavor \* \* \* You will find the modern Cascaret, with its satiny chocolate flavor, a double delight. But for those who might prefer their old favorite, unchanged, plain Cascarets will continue to be sold \* \* \* Their action is the same"; (on circular accompanying another article in the same